

OPINION
49-128

September 22, 1949 (OPINION)

MARRIAGE

RE: Certified Copy of Decree of Divorce

Re: Section 14-0317 R.C. 1943

Yours of the 21st inst. regarding the requirement of section 14-0317 (2) that a certified copy of the decree of divorce be filed by any applicant for a marriage license who has been divorced, has been received.

From your letter it appears that the applicant was divorced in Nebraska; that he entered the army in the last war and that his copy of the decree was lost; that the court records were burned some time ago; and that it is now impossible to secure another certified copy of the decree.

The law does not require the impossible. The requirement of a certified copy of the decree is, in part at least, as indicated to prevent a remarriage contrary to the provisions of the decree. The most frequent of these is the prohibition of a remarriage within a certain specified time. Since, as you indicate, this divorce was granted before this divorcee entered the army in the last war, any such prohibition has expired long ago.

It is our opinion that you would be amply justified if you accepted from the divorcee his own affidavit stating fully the details of his divorce-to-wit: the name of his former wife, the court which granted the decree, the approximate date thereof, that there was no prohibition of his remarriage contained therein; that he lost his certified copy in his army service, and that the court records were burned, so that it is impossible now to secure another certified copy, in lieu of the statutory requirement that a certified copy of the divorce be filed with his application for a marriage license.

WALLACE E. WARNER

Attorney General